

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2451 - SB 2579

March 26, 2018

SUMMARY OF BILL: Enacts Leigh Ann's Law that authorizes any court with jurisdiction to impose a penalty of imprisonment of 10 days and a fine of \$500 for contempt if arising from a violation of an order of protection, a court-approved consent agreement, an injunction, or a no contact order.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – To the extent a judge imposes the punishment authorized by the proposed legislation, the proposed legislation will impact expenditures from the Indigent Defense Fund; the caseload of the District Attorneys General Conference; the District Public Defenders Conference; and will increase local incarceration costs. However, due to multiple unknown factors, the increase in state expenditures and the mandatory increase in local expenditures cannot reasonably be determined.*

Assumptions:

- Tennessee Code Annotated § 29-9-102 authorizes a court to impose punishment for civil contempt of court for certain misbehavior or willful conduct. Tennessee Code Annotated § 29-9-103 limits punishment for contempt to 10 days of imprisonment and a fine of \$50 for circuit, chancery, and appellate courts. The punishment is limited to 10 days and a fine of \$10 for all other courts.
- The proposed legislation amends Tenn. Code Ann. § 29-9-103 to authorize a court to impose 10 days of imprisonment and a fine of \$500 as punishment for contempt resulting from a violation of an order of protection, a court-approved consent agreement, an injunction, or a no contact order.
- Contempt proceedings are not subject to a jury trial. See *Tenn. R. Crim. P. 42, Advisory Commission Comment* ("No right to a jury trial exists upon a state charge of criminal contempt under present law establishing the penalties for the offense."). This is because the penalty for contempt under current law is limited to 10 days of imprisonment and a fine of \$50.
- Article VI, Section 14 of the Constitution of Tennessee provides:

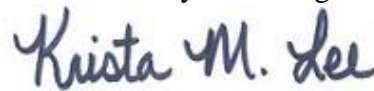
No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

- The proposed legislation does not require a punishment of 10 days imprisonment and a fine of \$500, but does authorize a court to order such punishment.
- It is assumed that most judges will not order this punishment, because ordering a fine over \$50 will trigger the defendant's right to a jury trial. However, to the extent a court orders the punishment authorized by the proposed legislation, the proposed legislation will result in those persons being held in contempt having a right to a jury trial for the contempt proceeding.
- The potential impacts associated with granting the right to a jury trial for contempt proceedings are:
 - Increased state judicial resources in circuit and chancery courts for each trial;
 - Increased resources for public defenders to represent indigent defendants;
 - Increased expenditures from the Indigent Defense Fund for appointed counsel to represent indigent defendants; and
 - Increased local expenditures to empanel a jury for each trial.
- Additional trials would have a significant impact on the state court system. Not only the Indigent Defense Fund, but also the public defenders will be impacted if a violator is indigent. Further, the resources of court time, filings, and the delay of other court matters will impact circuit and chancery courts. However, due to insufficient data and multiple unknown factors, the potential increase in expenditures from the Indigent Defense Fund and the necessary resources required by the courts and public defenders cannot be reasonably determined.
- To the extent a court imposes the punishment authorized by the proposed legislation, the proposed legislation will increase local incarceration costs. The estimated 2018 cost per inmate per day for local jails is \$63.00. However, due to multiple unknown factors and a lack of data, the potential increase in local incarceration costs cannot reasonably be estimated.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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